



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2011-0698; FRL-9951-95-Region 5]

**Approval and Promulgation of Air Quality Implementation Plans;
Indiana; Redesignation of the Indiana Portion of the Louisville
Area to Attainment of the 1997 Annual Standard for Fine
Particulate Matter**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is granting Indiana's request to redesignate, under the Clean Air Act (CAA), the state of Indiana portion of the Louisville (KY-IN) (Madison Township in Jefferson County and Clark and Floyd Counties) nonattainment area to attainment of the 1997 annual standard for fine particulate matter (PM_{2.5}). EPA determined that the Louisville area has attained the 1997 annual standard, and proposed on July 11, 2013, with a supplemental proposal on June 23, 2016, to approve Indiana's request to redesignate the area. EPA is taking final action today on the proposal and supplemental proposal. EPA is also taking final action in this rulemaking on several related proposals.

Along with granting the change in the area's designation status, EPA is also approving Indiana's PM_{2.5} maintenance plan

for the Louisville area as a revision to the Indiana state implementation plan (SIP) as meeting the requirements of section 175A of the CAA. EPA is approving the 2008 emissions inventory for primary PM_{2.5}, nitrogen oxides (NO_x), sulfur dioxide (SO₂), volatile organic compounds (VOC) and ammonia as satisfying the requirement of the CAA for a comprehensive, current emission inventory. Finally, EPA finds adequate and is approving 2015 and 2025 primary PM_{2.5} and NO_x motor vehicle emissions budgets (MVEBs) for the Louisville area. These MVEBs will be used in future transportation conformity analyses for the area. These actions were proposed for approval in EPA's initial action on July 11, 2013. EPA received no comments in response to the above proposals.

DATES: This final rule is effective on **[insert the date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID NO. EPA-R05-OAR-2011-0698. All documents in these dockets are listed on the www.regulations.gov web site.

Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either through www.regulations.gov or at

the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Carolyn Persoon at (312) 353-8290 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Carolyn Persoon, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8290, persoon.carolyn@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the Background for the Actions?
- II. What Actions is EPA Taking?
- III. What is EPA's Response to Comments?
- IV. Why is EPA Taking These Actions?
- V. Final Action
- VI. Statutory and Executive Order Reviews

I. What is the Background for the Actions?

On June 16, 2011, the Indiana Department of Environmental Management (IDEM) submitted its request to redesignate the Indiana portion of the Louisville nonattainment area to

attainment for the 1997 annual PM_{2.5} NAAQS, and for EPA approval of the state's SIP revision containing a maintenance plan for the area. On July 11, 2013, (78 FR 41735), EPA proposed to grant Indiana's redesignation request and its plan for maintaining the 1997 annual PM_{2.5} NAAQS. EPA also proposed approval of Indiana's MVEBs for PM_{2.5} and NO_x for 2025 for the area. EPA also proposed the 2008 emissions inventory for primary PM_{2.5}, NO_x, SO₂, VOC and ammonia as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. Additional background for this action is set forth in EPA's July 11, 2013 (78 FR 41735), proposed rulemaking. EPA published a supplement to its July 11, 2013, proposed rulemaking on June 23, 2016 (81 FR 40834). The supplement was based on valid design values for the 2013-2015 period, demonstrating attainment of the standard for the entire Louisville area using the most recent three years of data. Previous data from 2012 and beginning of 2013 had been invalidated through a technical systems audit, which is described in the supplemental proposal.

II. What Actions is EPA Taking?

EPA has determined that the entire Louisville area is attaining the 1997 annual PM_{2.5} standards (81 FR 40834) and that the Indiana portion of the Louisville area has met the requirements for redesignation under section 107(d)(3)(E) of the

CAA. Thus, EPA is granting the request from the state of Indiana to change the legal designation of the Indiana portion of the Louisville area from nonattainment to attainment for the 1997 annual PM_{2.5} NAAQS. EPA is also taking several additional actions related to Indiana's PM_{2.5} redesignation request, as discussed below.

EPA is approving the 2008 emissions inventory for primary PM_{2.5}, NO_x, SO₂, VOC and ammonia as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory.

EPA is approving Indiana's PM_{2.5} maintenance plan for the Indiana portion of the Louisville area as a revision to the Indiana SIP (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the Louisville area in attainment of the 1997 annual PM_{2.5} NAAQS through 2026.

EPA also finds adequate and is approving Indiana's 2025 primary PM_{2.5} and NO_x MVEBs for the Louisville area. These MVEBs will be used in future transportation conformity analyses for the area.

III. What is EPA's Response to Comments?

EPA received no comments on either its proposed or supplemental rulemaking.

IV. Why is EPA Taking These Actions?

EPA has determined that the Louisville area has attained the 1997 annual PM_{2.5} NAAQS. EPA has also determined that all other criteria have been met for the redesignation of the Indiana portion of the Louisville area from nonattainment to attainment of the 1997 annual PM_{2.5} NAAQS and for approval of Indiana's maintenance plan for the area. See CAA sections 107(d)(3)(E) and 175A. EPA is also approving the 2008 emissions inventory for primary PM_{2.5}, NO_x, SO₂, VOC and ammonia as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. The detailed rationale for EPA's findings and actions is set forth in the proposed rule on July 11, 2013, and a supplemental proposal on June 23, 2016.

V. Final Action

EPA is determining that the Indiana portion of the Louisville area has attained the standards and that the area meets the requirements for redesignation to attainment of that standard under sections 107(d)(3)(E) and 175A of the CAA. Thus, EPA is granting the request from Indiana to change the legal designation of the Indiana portion of the Louisville area from nonattainment to attainment for the 1997 annual PM_{2.5} NAAQS. EPA is also approving Indiana's 1997 annual PM_{2.5} maintenance plan for the Indiana portion of the Louisville area as a revision to the SIP because the plan meets the requirements of section 175A

of the CAA. EPA is approving the 2008 emissions inventory for primary PM_{2.5}, NO_x, SO₂, VOC and ammonia as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. Finally, EPA finds adequate and is approving Indiana's 2025 primary PM_{2.5} and NO_x MVEBs for the Indiana portion of the Louisville area. These MVEBs will be used in future transportation conformity analyses for the area after the effective date for the adequacy finding and approval.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule grants or recognizes an exemption or relieves a restriction, and section 553(d)(3), which allows an effective date less than 30 days after publication as otherwise provided by the agency for good cause found and published with the rule. The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does

not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this rule relieves Indiana of various requirements for the Indiana portion of the Louisville area. For these reasons, EPA finds good cause under 5 U.S. C. 553(d)(3) for this action to become effective on the date of publication of this action.

VI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For these reasons, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register.

A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter.

40 CFR Part 81

Environmental protection, Air pollution control, National
parks, Wilderness areas.

Dated: August 26, 2016.

Robert A. Kaplan,
Acting Regional Administrator, Region 5.

40 CFR parts 52 and 81 are amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (e) is amended by adding an entry for "Louisville 1997 Annual PM_{2.5} Maintenance Plan" in alphabetical order to read as follows:

§52.770 Identification of plan.

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(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY
PROVISIONS

Title	Indiana date	EPA approval	Explanation
* * * * *			
Louisville 1997 Annual PM _{2.5} Maintenance Plan	6/16/2011	[insert date of publication in the Federal Register], [insert Federal Register citation]	
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3. Section 52.776 is amended by adding paragraphs (v) (6) and (w) (5) to read as follows:

§52.776 Control strategy: Particulate matter.

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(v) * * *

(6) Approval – The 1997 annual PM_{2.5} maintenance plan for the Indiana portion of the Louisville (KY-IN) (Madison Township,

Jefferson County and Clark and Floyd Counties), has been approved as submitted on June 16, 2011. The maintenance plan establishes 2025 motor vehicle emissions budgets for the Louisville area to be 324.04 tpy for primary PM_{2.5} and 9,311.76 tpy for NO_x.

(w) * * *

(5) Indiana's 2008 NO_x, directly emitted PM_{2.5}, SO₂, VOC, and ammonia emissions inventory satisfies the emission inventory requirements of section 172(c)(3) for the Louisville area.

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PART 81--DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

4. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

5. Section 81.315 is amended by revising the entry for "Louisville, KY-IN" in the table entitled "Indiana-1997 Annual PM_{2.5} NAAQS [Primary and secondary]" to read as follows:

§81.315 Indiana.

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Indiana-1997 Annual PM_{2.5} NAAQS
[Primary and secondary]

Designated Area	Designation ^a		Classification	
	Date ¹	Type	Date ²	Type
* * * * *	* * *			
Louisville, KY-IN: Clark County Floyd County Jefferson County (part) Madison Township	[insert date of publication in the Federal Register]	Attainment		Moderate.

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^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

² This date is July 2, 2014, unless otherwise noted.

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